

OCT 15 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARK J. HANSEN; MONICA S.
HANSEN; SHASTA GENERAL
ENGINEERING, INC.,

Plaintiffs - Appellants,

and

BERNIE L. HANSEN; KELLY A.
HANSEN; DONALD R. LANCASTER,

Plaintiffs,

v.

ARTHUR SCHUBERT; D. MISQUEZ;
GLADYS RIVERA; BETTY
RODRIGUEZ; RANDY JUNGLES;
LIDIA VARGES; GREG A. ZIEGLER;
STEPHANIE MCCALL; CRAIG
BURSON; TONY ESTEVES; J.
WALLENHORST; VINCENT
ZAMBRANA,

Defendants - Appellees.

No. 08-16398

D.C. No. 2:02-cv-00850-FCD-
GGH

MEMORANDUM^{*}

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

Appeal from the United States District Court
for the Eastern District of California
Frank C. Damrell, District Judge, Presiding

Argued and Submitted October 6, 2009
San Francisco, California

Before: RYMER and TASHIMA, Circuit Judges, and ADELMAN,^{**} District Judge.

In this § 1983 action, plaintiffs Mark J. and Monica S. Hansen and a company they operate, Shasta General Engineering, Inc. (“Shasta”), asserted a variety of claims under the Fourth Amendment. The Hansens appeal from the district court’s grant of summary judgment on three of their claims. The Hansens contend that the district court erred in concluding that the search warrant at issue was based on probable cause, that the scope of the search did not exceed that authorized by the warrant and that the search was not unlawful for being disproportionate to its underlying purpose. We affirm the decision of the district court in all respects.

We conclude, first, that the district court correctly determined that the magistrate had probable cause to issue the search warrant at issue. Probable cause

^{**} The Honorable Lynn S. Adelman, United States District Judge for the Eastern District of Wisconsin, sitting by designation.

exists if “there is a fair probability that contraband or evidence of a crime will be found in a particular place.” *Illinois v. Gates*, 462 U.S. 213, 238 (1983). In the present case, the warrant was based in substantial part on information provided by a citizen informant. This informant told defendant Arthur Schubert that Shasta was engaging in criminal activity through its method of paying its employees. Schubert corroborated the information in several ways. For these reasons, the district court properly concluded that the magistrate had probable cause.

We also conclude that the scope of the search did not exceed that authorized by the warrant. Officers may search containers in which the objects of a search may reasonably be found. *See United States v. Ross*, 456 U.S. 798, 820-21 (1982); *see also United States v. Williams*, 687 F.2d 290, 293 (9th Cir. 1982) (upholding search of lunch box because evidence of marijuana cultivation could be hidden inside). The search warrant in this case authorized the search for many small items that could reasonably be found in the areas searched.

Finally, the officers did not conduct the search in an unreasonable manner. Plaintiffs tried their excessive force and unreasonable detention claims to a jury and did not prevail and have no separate disproportionality claim.

AFFIRMED.